

9/10/2012 10:42 am

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

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SERVISAIR LLC,

Plaintiff,

ORDER
12-CV-387 (ADS)(WDW)

-against-

FLY MICRONESIA LLC, d/b/a FLY GUAM,

Defendants.
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APPEARANCES:

McBreen & Kopko

Attorneys for the plaintiff

500 North Broadway, Suite 129

Jericho, NY 11753

By: Richard A. Auerbach, Esq., Of Counsel

NO APPEARANCE:

Fly Micronesia LLC, d/b/a Fly Guam

SPATT, District Judge.

On January 27, 2012, the plaintiff commenced this action against defendant Fly Micronesia LLC, d/b/a Fly Guam asserting causes of action for breach of contract, unjust enrichment, and quantum meruit. The Clerk of Court noted the default of defendant on May 1, 2012, and on May 2, 2012, the plaintiff moved for a default judgment. On May 11, 2012, the Court referred this matter to United States Magistrate Judge William D. Wall for a recommendation as to whether the motion for a default judgment should be granted, and if so, whether damages should be awarded, including reasonable attorney's fees and costs.

On August 23, 2012, Judge Wall issued a Report and Recommendation, recommending that the Court enter a default judgment against the defendant and that the Court award the plaintiff damages as follows: (1) \$1,678,414.55 in unpaid balance on the contract; (2) interest on

the unpaid balance at a rate of 10% from December 18, 2011 to the date of entry of the judgment; and (3) \$393.30 in costs. To date, there have been no objections filed to the Report.

In reviewing a report and recommendation, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Wall’s Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Wall’s Report, it is hereby

ORDERED, that Judge Wall’s Report and Recommendation is adopted in its entirety. The Court: (1) grants the plaintiff’s motion for a default judgment as against defendant Fly Micronesia LLC, d/b/a Fly Guam and (2) awards the plaintiff: \$1,678,414.55 in unpaid balance on the contract; interest on the unpaid balance at a rate of 10% from December 18, 2011 to the date of entry of the judgment; and \$393.30 in costs, and it is further

ORDERED, that the Clerk of the Court is directed to enter judgment in favor of the plaintiff as set forth above, and it is further

ORDERED, that the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
September 10, 2012

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge